K 1946.

O & F Audit

**File No.** 46

Legal Department

A **BRANCH**

**Subject:—**

Opinions Under the Bombay

Local Fund Audit Act 1930

9/11/46

O & F. Audit

46

**File No**

Gen. 194 e.

# C O N T E N T S.

Legal Department File No. O. L.F. Audit/46

| Sr. No. | R.I. / O. No. | Subject | Pages. |
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| | O. L.F.Audit 1946. | Opinions under the Bombay Local Fund Audit Act, 1930. | |
| 1. | 2636 6-4-46. | Interpretation of Section 11(1).- | 1. |

EVY. 7/7/

1?HB 3817

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Office of the R.L.A.

In his opinion No. 2710 dated 26-3-1942 the R.L.A. Opined:-

> "The words "any person" used in the latter part of section 11(1) of the Bombay Local Fund Audit Act, 1930, are very wide and will include persons other than the Municipal Councillors, Municipal Officers and servants. It appears that it would be against the plain language of the second part of section 11(1) to limit its application to only members or office bearers or officers of local authority concerned."

In Mis. Application No. 19 of 1943 the District Judge, East Khandesh, Jalgaon, has taken a contrary view presumably on the assumption that the object of the Bombay Local Fund Audit Act as stated in the Statementof Objects and Reasons of the Bill is that if any misapplication of funds is made by any president or chairman or a member of a local authority, the loss sustained by the local authority by such action should be recovered from him. The R.L.A. is requested to advise.

The view taken by the District Judge, East Khandesh, Jalgaon, is not correct. He appears to have wrongly assumed that the object of the Act is to limit the liability for the misapplication or loss of funds to the President, chairman or member of a local authority. It is nowhere so stated in the Statement of Objects and Reasons of the Bills underlying the Bombay Local Fund Audit Act.

The Bombay Local Fund Audit Act provides for no appeal against the decision of the District ~~xxx~~ Judge. Perhaps a revision application may lie in the High Court. But the District Judge has found that the petitioner was not guilty of gross negligence and that being a question of fact the High Court may not interfere with it in revision. Consequently the present decision of the District Judge may be allowed to stand.

Sd/- 5/4

Remembrancer of Legal Affairs.

U.R. to E.D., No. 2636, dated the 6th April 1946.

EVY. 8/7.